

§ 25.13

money penalties upon lenders and mortgagees, as set forth in 24 CFR part 30. The violations for which a civil money penalty may be imposed are listed in subpart B (Violations) of part 30. Hearings to challenge the imposition of civil money penalties shall be conducted according to the applicable rules of 24 CFR part 30.

[68 FR 12787, Mar. 17, 2003]

§ 25.13 Notifying GNMA of withdrawal actions.

When the Board issues a notice of violation that could lead to withdrawal of a mortgagee's approval, or is notified by GNMA of an action that could lead to withdrawal of GNMA approval, the Board shall proceed in accordance with 12 U.S.C. 1708(d).

(Approved by the Office of Management and Budget under Control Number 2502-0450)

[61 FR 685, Jan. 9, 1996]

§ 25.14 Prohibition against modification of Board orders.

No hearing official, hearing officer, or other independent official before whom proceedings are conducted under § 25.8 shall modify or otherwise disturb in any way an order or notice by the Board.

[60 FR 39238, Aug. 1, 1995. Redesignated at 61 FR 685, Jan. 9, 1996]

§ 25.15 Retroactive application of Board regulations.

Limitations on participation in HUD mortgage insurance programs proposed or imposed prior to August 12, 1992, under an ancillary procedure shall not be affected by this part. This part shall apply to sanctions initiated after the effective date of the Department of Housing and Urban Development Reform Act of 1989 (December 15, 1989) regardless of the date of the cause giving rise to the sanction.

[57 FR 31051, July 13, 1992. Redesignated at 61 FR 685, Jan. 9, 1996]

24 CFR Subtitle A (4-1-04 Edition)

§ 25.17 [Reserved]

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AUTHORITY: 42 U.S.C. 3535(d).

SOURCE: 48 FR 43304, Sept. 23, 1983, unless otherwise noted.

Subpart A—Hearings Before Hearing Officers

§ 26.1 Purpose.

This part sets forth rules of procedure in certain proceedings of the Department of Housing and Urban Development presided over by a hearing officer. These rules of procedure apply to hearings with respect to determinations by the Multifamily Participation Review Committee pursuant to 24 CFR part 200, subpart H, to hearings conducted pursuant to referrals by debarring or suspending officials under 24 CFR part 24, and to hearings conducted pursuant to referrals by a hearing official under 24 CFR part 25, unless such regulations at 24 CFR parts 24, 25, or 200, provide otherwise. They also apply in any other case where a hearing is required by statute or regulation, to the extent that rules adopted under such statute or regulation are not inconsistent.

[48 FR 43304, Sept. 23, 1983, as amended at 60 FR 39239, Aug. 1, 1995]

HEARING OFFICER

§ 26.2 Hearing officer, powers and duties.

(a) *Hearing officer.* Proceedings conducted under these rules shall be presided over by a hearing officer who shall be an Administrative Law Judge or Board of Contract Appeals Judge authorized by the Secretary or designee to conduct proceedings under this part.

(b) *Time and place of hearing.* The hearing officer shall set the time and place of any hearing and shall give reasonable notice to the parties.

(c) *Powers of hearing officers.* The hearing officer shall conduct a fair and impartial hearing and take all action necessary to avoid delay in the disposition of proceeding and to maintain order. The hearing officer shall have all powers necessary to those ends, including but not limited to the power:

(1) To administer oaths and affirmations;

(2) To cause subpoenas to be issued as authorized by law;

(3) To rule upon offers of proof and receive evidence;

(4) To order or limit discovery as the interests of justice may require;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel;

(6) To hold conferences for the settlement or simplification of the issues by consent of the parties;

(7) To consider and rule upon all procedural and other motions appropriate in adjudicative proceedings;

(8) To take notice of any material fact not appearing in evidence in the record which is properly a matter of judicial notice; and

(9) To make and file determinations.

§ 26.3 Failure to comply with an order of the hearing officer.

If a party refuses or fails to comply with an order of the hearing officer, the hearing officer may enter any appropriate order necessary to the disposition of the hearing including a determination against the noncomplying party.

§ 26.4 Ex parte communications.

(a) *Definition.* An ex parte communication is any communication with a